

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Mildred Hudgins Realty LLC, et al.)
Map 060-04-0, Parcel 82.00) Davidson County
Commercial Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$192,000	\$1,703,500	\$1,895,500	\$758,200

An appeal has been filed on behalf of the property owners with the State Board of Equalization. The appeal was timely filed on September 30, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated, §§ 67-5-1412, 67-5-1501 and 67-5-1505. A jurisdictional hearing was conducted on February 10, 2006 at the Davidson County Property Assessor’s Office. Present at the hearing were Norman E. Hall, the taxpayer’s representative and Mr. Dennis Donovan, MAI, Division of Assessments for the Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an apartment complex located at 120 Oak Valley in Nashville, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer’s appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(b)(2) & 67-5-1412(e). Nevertheless, the legislature has also provided that:

The taxpayer shall have **a right to a hearing and determination to show reasonable cause** for the taxpayer’s failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing Tenn. Code Ann. § 67-5-1412(e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except **where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.** (*emphasis added.*) *Associated Pipeline Contractors Inc.* (Williamson County, Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction to this appeal, the taxpayers must show that circumstances beyond their control prevented them from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

The taxpayer's representative, Mr. Norman E. Hall, stated that he met with Mr. Kenny Vincent, a representative of the Davidson County Assessor's Office, to discuss and review this matter in an informal review process. Mr. Hall and Mr. Vincent came to an agreement to settle the issue and both sides considered the matter settled.

Later, Mr. Hall was reviewing the properties he represented and noticed the subject's property values had not changed on the computer. Mr. Hall called Mr. Vincent who verified that the values should show a change. Mr. Vincent then began to search for the settlement agreement but could not find it. Mr. Vincent contacted Mr. Hall and advised him that the document was missing but that the county would stand by the agreement. Mr. Hall then realizing that the time to apply to the county board had passed and therefore filed this appeal to preserve his client's rights.

Both the taxpayer's representative and the county's representative agree that the failure to file to the county board constitutes circumstances beyond the taxpayer's control.

ORDER

The administrative judge finds that the taxpayer's representative, Mr. Hall, has sustained his burden and therefore the State Board of Equalization has jurisdiction to hear this appeal.

The issue of value should be heard on March 30, 2006 at 8:00 a.m.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”**

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 16th day of February, 2006.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Norman E. Hall
Dennis Donovan, Assessor's Office